

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CHRISTOPHER ROBERT LUTE,

Plaintiff,

v.

E. SILVA, et al.,

Defendants.

Case No. 1:20-cv-01122-ADA-CDB (PC)

**ORDER DENYING REQUEST FOR ENTRY
OF DEFAULT**

(Doc. 40)

Plaintiff Christopher Robert Lute is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

I. INTRODUCTION

On November 17, 2023, Plaintiff filed a document titled “Request for Entry of Default, pursuant to Rule 55(a) Fed. R. Civ. P.” (Doc. 40.) He seeks entry of default against Defendants Valladolid, Randolph, Romero and Moreno for failing to file a responsive pleading. (*Id.*) He contends defense counsel “has not served answer or taken any other actions as permitted by law although more than 60-days have passed” following the waiver of service. (*Id.* at 6.) At page 7 of his filing, titled “Motion for Default Judgment pursuant to Fed. R. Civ. P. 55(a), Plaintiff states following entry of default, “on the date 12/14/23,” he will seek \$2,000,000 in compensatory damages and \$2,000,000 in punitive damages. (*Id.* at 7-11.)

Plaintiff is not entitled to entry of default. Despite Plaintiff's assertion to the contrary, Defendants filed a timely answer to Plaintiff's second amended complaint on November 8, 2023. (*See* Doc. 37.)

The Court notes Plaintiff filed a Notice of Change of Address on November 13, 2023. (Doc. 39.) The notice is dated and signed November 7, 2023. (*Id.*) It also states that Plaintiff “went out to court” on October 13, 2023, and returned to Corcoran State Prison on October 27, 2023, but was housed in another area of the facility, to wit: “ASU F-163L.” (*Id.*) Therefore, it appears likely that Plaintiff did not receive a copy of Defendants’ answer, properly served on November 8, 2023, via United States mail. The Clerk of the Court will be directed to provide Plaintiff with a copy of Defendants’ answer as a *one-time courtesy*.

For the reasons given above, Plaintiff's request for entry of default (Doc. 40) is **DENIED**. The Clerk of the Court is **DIRECTED** to send Plaintiff a copy of Defendants' answer (Doc. 37) filed November 8, 2023, as a one-time courtesy.

IT IS SO ORDERED.

Dated: **November 20, 2023**


UNITED STATES MAGISTRATE JUDGE